

United States Court of Appeals
For the Eighth Circuit

No. 17-1835

Apollyon Kennedy-Bey

Plaintiff - Appellant

v.

Metropolitan Council; Emmanuel Martinez Cruz; John Steele; Matthew Brake;
Timothy Asp, each in his official capacity as a Metro Transit Police Officer

Defendants - Appellees

Appeal from United States District Court
for the District of Minnesota - Minneapolis

Submitted: March 1, 2018
Filed: April 3, 2018
[Unpublished]

Before GRUENDER, MURPHY, and SHEPHERD, Circuit Judges.

PER CURIAM.

In this pro se 42 U.S.C. § 1983 action, Apollyon Kennedy-Bey appeals after the district court¹ adversely granted summary judgment.

Having carefully reviewed the record and the parties' arguments on appeal, we conclude that the district court did not abuse its discretion in striking Kennedy-Bey's untimely amended complaint, see Kmak v. Am. Century Cos., 873 F.3d 1030, 1034 (8th Cir. 2017) (standard of review), and properly granted summary judgment, see Beaulieu v. Ludeman, 690 F.3d 1017, 1024 (8th Cir. 2012) (grant of summary judgment is reviewed de novo, viewing record in light most favorable to nonmovant); see also City of Los Angeles v. Lyons, 461 U.S. 95, 109, 111 (1983) (plaintiff was not entitled to injunction where there was no showing of any real or immediate threat that plaintiff would be wronged again); Monroe v. Ark. State Univ., 495 F.3d 591, 594 (8th Cir. 2007) (Eleventh Amendment bars suits for any kind of relief against states and state agencies); Murphy v. State of Ark., 127 F.3d 750, 754 (8th Cir. 1997) (§ 1983 claims for damages against defendants in their official capacities were barred). Accordingly, we affirm. See 8th Cir. R. 47B.

¹The Honorable Donovan W. Frank, United States District Judge for the District of Minnesota, adopting the report and recommendations of the Honorable Leo I. Brisbois, United States Magistrate Judge for the District of Minnesota.